

## WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS

DATE: OCTOBER 22, 2014

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS MERLINO  
CONOVER  
TAYLOR  
FRASIER  
DICKINSON  
SIMPSON  
SOKOL  
VANSELOW

**OTHERS PRESENT:**

JEFFERY TENNYSON, SUPERINTENDENT OF PUBLIC WORKS  
REPRESENTING THE KINGS SCHOOL:  
CORY PATTERSON, ADMINISTRATOR OF THE KING'S SCHOOL  
DAVID AVIGDOR, LEGAL COUNSEL  
THOMAS JARRETT, JARRETT ENGINEERS, PLLC  
KEVIN GERAGHTY, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ADMINISTRATOR  
JOAN SADY, CLERK OF THE BOARD  
FRANK THOMAS, BUDGET OFFICER  
SUPERVISORS BROCK  
SEEGER  
JIM FITZGERALD, TOWN OF QUEENSBURY ANIMAL CONTROL OFFICER  
DON LEHMAN, *THE POST STAR*  
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD

**COMMITTEE MEMBER ABSENT:**

SUPERVISOR WOOD

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Mr. Merlino called the meeting of the Public Works Committee to order at 10:00 a.m.

Motion was made by Mr. Vanselow, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Jeffery Tennyson, Superintendent of Public Works, who distributed copies of the Parks, Recreation & Railroad and DPW Agendas to the Committee members; *copies of both Agendas are on file with the meeting minutes.*

Commencing the review of the Parks, Recreation & Railroad Agenda with the SNCR (*Saratoga & North Creek Railway*) update, Mr. Tennyson pointed out that the Agenda included a copy of an email from Justin Gonyo, SNCR General Manager, apologizing for his inability to attend the meeting because he was providing oversight for the commencement of freight operations from Tahawus mines. Referring to Mr. Gonyo's email, Mr. Tennyson advised that the Pumpkin Patch Express event, held on the prior weekend, had been deemed a success, having sold 568 of the 600 available tickets; he further noted that 11,000 Polar Express tickets had been sold so far. Mr. Tennyson advised Mr. Gonyo would attend the November Committee meeting to provide a more extensive update.

Moving on, Mr. Tennyson noted that representatives of The King's School were in attendance to present and discuss final plans for the construction of a pedestrian railroad crossing to reach their athletic fields which were located on the opposite side of the railroad tracks from the School's buildings. He introduced Cory Patterson, Administrator of The King's School; David Avigdor, Legal Counsel; and Thomas Jarrett, of Jarrett Engineers, PLLC. Mr. Tennyson reminded the Committee that at a prior meeting they had provided conceptual approval of the crossing plans which had allowed The King's School to proceed to obtain engineered plans, which they had done; he added that the next step would be for the Committee to review the engineered plans, and if they were in favor, approve and refer them to the Board of Supervisors for the approvals needed to proceed to construction.

Mr. Avigdor apprised that The King's School was an accredited, private religious school with an enrollment of 145 students in their Kindergarten through High School classes. He explained that the school was located on the opposite side of the railroad tracks from the athletic fields and he noted that for many years when the tracks were unused they had freely crossed them to travel back and forth between the two facilities. He further explained that when train traffic had resumed, they had stopped all crossing activity at the school and had started traveling about a quarter of a mile away to cross

where they were legally able to do so. Mr. Avigdor advised that in order to reach the legal crossing, students had to travel down a busy section of State Route 9N which had a posted speed limit of 55 mph; he noted that the school had contacted the State of New York to request that the speed limit be reduced in the area of the school, but that request was denied. He continued that since railroad operations had resumed, The King's School had decided to refrain from allowing the elementary school children to use the fields at all, which required their physical education courses to be held inside, consequently restricting the children's physical education and the amount of time spent outdoors, as well as the physical and cultural educational programs that could be offered. Mr. Avigdor advised that initially, the older children had walked down the busy stretch of highway to the legal crossing point to reach the fields, but procedural changes had since been made to transport the children by car to the fields which lessened the amount of time spent on physical activity. Additionally, he noted that because the School did not have an infrastructure in place to provide mass transportation, staff and parents were transporting the children to the fields, which was difficult. Mr. Avigdor said The King's School was requesting authorization to construct a pedestrian railroad crossing to create a safe and legal place for the children to reach the sports fields to improve their physical activity.

Mr. Avigdor recalled that the conceptual plan presented to the Public Works Committee last year had been approved by a majority vote, with only one abstention, and he believed that the engineered plans had improved upon their original concept. He said the engineered plans included changes to narrow the crossing path from eight feet to four feet, as well as to rearrange the placement of the accompanying fencing in a manner SNCR felt was safer. Mr. Avigdor advised SNCR representatives had been involved in the engineering process for the proposed crossing and had approved the plans presented, as had The King's School's Board of Trustees and Parents Fellowship. He said he understood how the idea of allowing children to cross an active railroad track might cause some trepidation, but he noted that both the School and the parents of the children in attendance had reviewed, considered and fully supported the concept. Mr. Avigdor commented that there were pedestrian and student railroad crossings in many areas, signifying that this was not a unique situation; he added that certain national safety standards for situations such as this had been developed and he assured the Committee that the concept presented complied with all of them. He advised that accompanying the construction of the safe crossing site, new procedures and training would be implemented requiring that a teacher or staff member always be present to lead students to the railroad tracks via the designated fenced area and monitor their crossing, ensuring that no student would ever cross the tracks alone. Additionally, Mr. Avigdor advised closed circuit cameras would be used to monitor the crossing area and appropriate signage, along with the train schedule, would be posted at the crossing location. He concluded that they believed the crossing plans proposed would provide a better, and much safer, crossing than traveling to the legal crossing site being used currently.

Mr. Sokol questioned whether The King's School would accept all liabilities that might occur in relation to use of the crossing and Mr. Avigdor replied affirmatively, confirming that The King's School understood that they would accept all liability in this matter on behalf of both the County and SNCR. He added that it would be perfectly reasonable for the County Attorney's Office to request proof of liability insurance and The King's School was fully prepared to present it.

Mr. Conover questioned whether the easement allowed for the construction of the proposed crossing would immediately revert to the County in the event that the School ceased operations. Mr. Tennyson responded that they would not be issuing an easement, but rather a license agreement that could be revoked by the County at any time; he added that this would provide the County with the opportunity to withdraw the agreement in the event of an accident or serious incident. Mr. Conover noted that multiple crossings in an area had an effect on the speed of train traffic and he questioned whether the introduction of the new crossing would eliminate the need for the crossing currently being used. Mr. Avigdor replied in the negative, explaining that the current crossing was used by multiple parties to reach homes located on the other side of the tracks.

Chairman Geraghty asked if any consideration had been given to incorporating an elevated structure to cross over the tracks and Mr. Avigdor replied that they had; however, he said, the cost was absolutely exorbitant.

Mr. Taylor commented that although he understood that The King's School was willing to accept all liability relating to the crossing, that would not stop a party from suing the County and he asked Paul Dusek, County Administrator *and former County Attorney*, to comment on how this could be avoided. Mr. Dusek responded it would depend upon how the agreement was written and he could ask Martin Auffredou, County Attorney, to issue a memo making this explanation; Mr. Tennyson stated he was sure that Mr. Auffredou had maximized the County's protections when citing the requirements they expected The King's School to meet. Mr. Avigdor agreed that there was nothing to prevent a party from suing the County in the event of an incident; however, he noted, if the County were held harmless and listed as an additional insured on The King's School's liability insurance policy, it would be a simple matter to transfer the defense to the insurance carrier. Mr. Avigdor advised he would contact Mr. Auffredou after the meeting to discuss this matter further and he said they would seek to ensure both the County and SNCR were held harmless from liability exposure in association with the crossing.

Mr. Jarrett distributed copies of the crossing plans, and proceeded with a brief overview; *copies of the pedestrian crossing plans are on file with the meeting minutes*. He pointed out that because the crossing area was located in a ravine, SNCR had requested that the fencing be modified to provide the best pedestrian control and to prevent those safety controls from being circumvented. Mr. Jarrett advised the revisions made to the original plans presented were minor and in keeping with the spirit of what the Public Works Committee had previously approved.

In response to a question posed by Mr. Taylor relative to the fencing currently in place, Ms. Patterson advised there was a five foot fence running the entire length of The King's School's property and Mr. Jarrett advised the new fencing leading down to the pedestrian crossing would tie into this existing fencing. Ms. Patterson commented that The King's School was committed to the safety of their students and they truly believed the introduction of the proposed pedestrian crossing would greatly increase the safety of these children by allowing a controlled crossing area; she added that The King's School was open to any questions or feedback the Committee might want to express on this issue.

There being no further discussion on the issue, motion was made by Mr. Sokol, seconded by Mrs. Frasier and carried unanimously to approve the plans, as presented, and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Tennyson announced that the next Agenda item called for discussion on a prior request to authorize dogs on the Warren County Bikeway and he introduced Jim Fitzgerald, Town of Queensbury Animal Control Officer, who was in attendance to speak on the matter.

Mr. Fitzgerald began by stating that it was not his intention to ruin anyone's reputation, as was suggested previously by a certain person, but rather to speak about public safety. He noted that his office already received many calls and complaints about dogs on the Bikeway which they were unable to enforce because the Bikeway was owned by Warren County and not the Town of Queensbury. Mr. Fitzgerald advised he was aware that dogs were being walked on the Bikeway, regardless of the signs prohibiting such use and he noted there was a certain area where DPW crews were constantly cleaning up waste bags dropped there by those dog walkers. He commented that if the Board entertained the idea of allowing dogs on the Bikeway, these disposal issues would likely be exacerbated. Mr. Fitzgerald said he was unsure how they would be able to enforce leash laws and rabies certificate requirements as there was currently no database in place to check them against; additionally, he noted that anyone checking dog licenses and rabies tags had to be vaccinated for rabies. He commented that he did not see a viable means of enforcement and he noted this would be a Warren County issue, not an animal

control issue. Continuing, Mr. Fitzgerald stated that as a EMS first responder, he was aware of accidents on the Bikeway from cycling accidents and he said adding dogs to the Bikeway would likely increase the chance of accidents, as well as the liability to Warren County.

Mr. Fitzgerald apprised that the Town of Queensbury was placing new signs in all of their parks indicating that they were pet friendly and listing the Town's Code for use of the parks; he added that the signs would list a number to contact his Office in the event that an infraction was identified. He commented that the Town of Queensbury was trying to be proactive in informing the public that pets were welcome in their parks if handled in a responsible way. Mr. Fitzgerald advised he had already visited a child in the emergency room with a dog bite that week and he said it was very disheartening to have to speak with both a plastic surgeon and a parent at the same time. He stated that the Bikeway was not wide enough for both bicyclists and dogs, especially some of the larger, exotic breeds in the Town of Queensbury which would take up even more room. Mr. Fitzgerald reiterated that there were already accidents occurring on the Bikeway and it was likely they would only become more numerous if dogs were permitted to be walked there. He also pointed out that there were over 2,000 dogs registered in the Town of Queensbury alone and if they were to grant this request, the County would likely have to hire an officer whose sole responsibility would be to police the Bikeway, which had the potential to become a logistical nightmare. Mr. Fitzgerald concluded that he did not want to upset anyone or cause hard feelings and he stated that although he was a dog lover himself, speaking from a public safety standpoint, he did not feel it was a good idea to allow dogs on the Bikeway.

Joan Sady, Clerk of the Board, read aloud a letter submitted to Mr. Tennyson by Linda Mangione, of Diamond Point, NY, recounting her negative experiences with dogs when riding her bicycle on the Bikeway and citing sections of Warren County Local Law No. 2 of 1984 which specifically prohibited dogs from being walked on the Bikeway and established a fining system for violations. *A copy of Ms. Mangione's letter is on file with the meeting minutes.*

Mr. Merlino indicated that the request to allow dogs on the Bikeway had been made by Dr. Fredd Senser-Lee, Founder of Botanical Blossomings on the Bikeway USA; he added that he had been notified Dr. Senser-Lee was unable to attend the meeting due to illness, but had asked that the Committee take a vote on this issue.

Mr. Taylor said he would agree that the Bikeway was intended for bicycles and that they would be decreasing bicyclist safety if they were to allow dogs on the Bikeway. For that reason, Mr. Taylor stated he would make a motion to deny Dr. Senser-Lee's request to amend the Local Law governing use of the Bikeway to allow dogs to be walked there; Mr. Dickinson seconded the motion.

Mr. Vanselow commented that when Dr. Senser-Lee indicated that Warren County's was the only Bikeway in the region that prohibited dogs he was not being entirely accurate because the public paths in the Town of Johnsbury did not allow dogs either. He said he was unsure whether this was a County-wide standard, but advised there was a lot of trepidation in his town about this issue and he would not be in favor of allowing dogs on the Warren County Bikeway.

Mr. Dickinson stated that although a vote by the Committee would reinforce the Local Law already in place to prohibit dogs from the Bikeway, it might behoove them to place signage at critical intersections along the Bikeway to notify users that dogs were not allowed. Mr. Tennyson responded that signage of this nature had been in place all along the Bikeway for some time.

There being no further discussion, Mr. Merlino called the question and the aforementioned motion was carried unanimously to indicate there was no desire amongst the Committee to amend the current Local Law and allow dogs on the Warren County Bikeway.

Resuming the Agenda review, Mr. Tennyson pointed out a request to authorize the sale of excess equipment included on Agenda Page 2. He explained that the request sought to sell a high rail pickup, (1994 F-150; VIN#2FTEF14Y2RCA71877) to the Riparius Volunteer Fire Department for the sum of \$800. Mr. Tennyson said this equipment had previously been used on the railroad tracks, but such use had not occurred over the past three years since SNCR had begun operations. He noted that the Riparius Volunteer Fire Department had approached his Office to express their interest in purchasing the truck so that it could be used on the tracks in the event of an emergency or brush fire. Mr. Tennyson said there had been some initial concerns with allowing the Riparius Volunteer Fire Department access to the tracks, but those concerns had been alleviated following discussions with SNCR who indicated they were not opposed to coordinating use of the tracks. Finally, Mr. Tennyson noted that the truck was considered scrap by his Department and that was how the \$800 purchase price was assigned.

Mr. Dickinson questioned whether the truck could be donated to the Riparius Volunteer Fire Department and Mr. Tennyson replied it was his understanding that because this was a piece of County-owned equipment, it had to be sold and could not be given away.

Motion was made by Mr. Sokol, seconded by Mr. Dickinson and carried unanimously to approve the request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting. *A copy of the resolution request form is on file with the meeting minutes.*

Mr. Tennyson then proceeded to review the Items of Interest section of the Agenda, as follows:

- \* Salmon stocking in Lake George - Mr. Tennyson advised the stocking of salmon in Lake George had been completed and he noted that the fish had been received at an average length of 7.78" which had increased to an average of 10.40" before stocking.
- \* Construction of New Display Pond - Mr. Tennyson circulated a photo of the new display pond that had been constructed at the Fish Hatchery; *a copy of the photo is on file with the meeting minutes.* He advised the new display pond provided an improved environment for the fish with safety fences to protect pedestrians and prevent predators from reaching the fish.
- \* Up Yonda Farm 1<sup>st</sup> Annual Trunk or Treat - Mr. Tennyson distributed flyers advertising the upcoming 1<sup>st</sup> Annual Trunk or Treat event which would be held at Up Yonda on Saturday, October 25<sup>th</sup> from 5:00 p.m. until 8:00 p.m.; *a copy of the flyer is on file with the meeting minutes.* He explained the concept of this event was for people to park and decorate their vehicles at Up Yonda following which visiting children would visit each car to trick-or-treat. Mr. Tennyson said this was a new venture that they'd seen done in other areas.

Concluding the Agenda review with the Referrals, Mr. Tennyson advised both The King's School pedestrian crossing issue and the request to allow dogs on the Bikeway had been addressed earlier in the meeting and could be removed from the Referrals List.

Mr. Tennyson commenced the review of the DPW Agenda with the Overtime and Fuel Reports which began Page 1. He noted that there was nothing significant to note in either Report and he advised they were doing well with both budgets.

Mr. Tennyson directed the Committee members to Agenda Page 5 which included a request to amend the County Budget in the amount of \$6,000 to account for expenses and revenues related to battery disposals.

Mr. Dickinson questioned whether a core charge was received for recycling batteries and Mr. Tennyson responded that although they did recycle all batteries, they did not receive a core charge for all of them. Mr. Tennyson advised this request was the result of a budgeting oversight that would be rectified in the 2015 Budget.

Motion was made by Mr. Simpson, seconded by Mr. Vanselow and carried unanimously to approve the request and refer same to the Finance Committee. *A copy of the request is on file with the meeting minutes.*

Mr. Tennyson pointed out that the requests included on Agenda Pages 6, 7 and 8 all sought to establish capital projects and appropriate the 5% Local Match Share for each; he added that he had hoped to include the 15% State Marchiselli Share as well, but the appropriate grant agreement documentation had not yet been received. Mr. Tennyson listed the three capital projects, as follows:

- Page 6 - Capital Project No. H351.9550 280, *CR44 over Hudson River Bridge Painting Project*, in the amount of \$12,600 (*Local Share to be transferred from Budget Code D.9950 910, Transfers-Capital Projects*);
- Page 7 - Capital Project No. H352.9550 280, *CR31 & CR13 Bridge Painting Project*, in the amount of \$13,600 (*Local Share to be transferred from Budget Code D.9950 910, Transfers-Capital Projects*); and
- Page 8 - Capital Project No. H353.9550 280, *County Bridge Abatement & Painting Project*, in the amount of \$11,400 (*Local Share to be transferred from Budget Code D.9950 910, Transfers-Capital Projects*)

With regards to Capital Project No. H351.9550 280, *CR44 over Hudson River Bridge Painting Project*, Mr. Tennyson noted that this bridge was jointly owned by Saratoga and Warren Counties and he advised Saratoga County would cover half of the costs for the painting project.

Motion was made by Mr. Taylor, seconded by Mr. Conover and carried unanimously to approve all three of the requests to establish new capital projects, as listed above, and refer same to the Finance Committee. *Copies of the requests are on file with the meeting minutes.*

Mr. Tennyson said Agenda Page 9 included a travel request for himself to attend the 20<sup>th</sup> Annual Conference on Local Bridges - Professional Development Program in Syracuse, NY on November 5-7, 2014; he advised that the expense associated with this travel was budgeted.

Motion was made by Mr. Conover, seconded by Mr. Sokol and carried unanimously to approve the travel request, as outlined above. *A copy of the executed Authorization to Attend Meeting or Convention Form is on file with the meeting minutes.*

Mr. Tennyson advised he had one more request to present which was not included in the Agenda packet relating to a contractual issue. He explained that Mountain Medical (*formerly known as Standard Medical*) had done a great job of performing on-site urinalysis and drug testing for CDL drivers in the DPW division, but due to a contractual issue, they had not been paid for the services provided in 2013 which totaled approximately \$1,600. Mr. Tennyson advised that in discussing this issue with the County Attorney's Office they had found that essentially, when Mountain Medical had been undergoing a company reorganization and name change process they (*Mountain Medical*) had inadvertently failed to provide the necessary paperwork to secure a contract for 2013. He further advised that the County Attorney's Office had initially determined there would be a need to backtrack and put the necessary contract in place; however, he said, they had subsequently decided it would be easier, and less confusing, if a resolution were authorized to approve payment for the services provided in 2013, rather than to try to institute a contract for a year that had already expired.

Motion was made by Mr. Conover, seconded by Mr. Dickinson and carried unanimously to authorize payment to Mountain Medical (*formerly known as Standard Medical*) for urinalysis and drug testing services provided in 2013 and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Moving on to the Pending Items (for Finance), Mr. Tennyson reported that there were some older Capital Projects that he would be closing, with any remaining funds being transferred either to pay off bond costs or to fund new projects. With regards to the three new capital projects approved for creation earlier in the meeting, Mr. Tennyson advised he anticipated the receipt of State grant funding documentation which would require that each of those projects be increased to include the 15% State Marchiselli funding.

Concluding the Agenda review with the Items of Interest section, Mr. Tennyson circulated photos of paving work completed on CR#19 Olmsteadville Road and bridge scour repair work completed on the CR#3 Warrensburg Road Bridge over Roaring Branch. *Copies of the photos are on file with the meeting minutes.*

Finally, Mr. Tennyson apprised he had learned that in association with the First Wilderness Heritage Corridor Project being advanced by the Planning & Community Development Department which included streetscaping work in the Town of Johnsborg, there was some funding available for paving which he would like to expend in 2014 to pave the parking lot near the White House at the North Creek Train Station. Mr. Tennyson said he had invited Wayne LaMothe, Director of Planning & Community Development, to provide more information on the First Wilderness work, but said he would delay the update until the next meeting because Mr. LaMothe had been unable to attend.

Mr. Conover questioned whether Mr. Tennyson was satisfied with the general productivity of the DPW crews for 2014 and Mr. Tennyson replied affirmatively, advising that they had made a lot of staffing transitions in the spring, including the appointment of a new Bridge Crew Foreman, that were working out well. Mr. Tennyson advised that even with a smaller budget, the DPW crews were doing more paving work than they had in prior years and their ability to complete the paving work ahead of schedule this year was a testament to the dedication of his staff; he added that good weather during the summer months had certainly been helpful. Mr. Tennyson also noted that they had some employees on staff that were able to perform top notch concrete work for bridge projects which was a great benefit. Mr. Tennyson concluded he was very happy with the work done by his staff.

There being no further business to come before the Public Works Committee, on motion made by Mr. Sokol and seconded by Mr. Conover, Mr. Merlino adjourned the meeting at 10:51 a.m.

Respectfully submitted,  
Amanda Allen, Deputy Clerk of the Board